

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

SEAN B. BUTLER,

Petitioner,

v.

PETER HUIBREGTSE,

Respondent.

ORDER

10-cv-128-bbc

ARMANDO P. RODRIGUEZ,

Petitioner,

v.

JUDY SMITH,

Respondent.

ORDER

10-cv-355-bbc

JAMES ADAM JACKSON,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

ORDER

10-cv-373-bbc

FRANCISCO JAVIER ESTRADA,

Petitioner,

v.

WARDEN HOLINKA,

Respondent.

ORDER

10-cv-465-bbc

CLEVELAND LEE, SR.,

Petitioner,

v.

JOHN PAQUIN,

Respondent.

ORDER

10-cv-681-bbc

JERRY MEANS,

Petitioner,

v.

STATE OF WISCONSIN,

Respondent.

ORDER

10-cv-715-bbc

JONATHAN McCORD,

Petitioner,

v.

ORDER

11-cv-180-bbc

ROBERT HUMPHREYS, RANDY GASSER,
DIVISION OF COMMUNITY CORRECTIONS, and
DEPARTMENT OF CORRECTIONS,

Respondent.

RONALD P. LANE,

Petitioner,

v.

WILLIAM POLLARD,

Respondent.

ORDER

11-cv-458-bbc

In each of these habeas corpus actions, the court granted the respective petitioner's motion for leave to proceed in forma pauperis on appeal. In each order, the court wrote the following: "Further, the clerk of court is requested to make sure that the court's financial records reflect petitioner's obligation to pay the [initial partial payment assessed in that case] and the remainder of the \$455 fee in monthly installments." In an order issued on March 15, 2012 in petitioner Ronald Lane's case, 11-cv-458-bbc, the Court of Appeals for the Seventh Circuit pointed out:

[Although] the district court is "authorized to assess an initial partial filing fee in cases in which the [Prison Litigation Reform Act] does not apply, Longbehn v. United States, 169 F.3d 1082, 1083 (7th Cir. 1999), . . . the district court should not be using the procedure outlined in 28 U.S.C. § 1915(b)(2) to collect unpaid portions of filing fees owed by prisoners in habeas corpus actions"

Lane v. Pollard, Case No. 11-3178 (7th Cir. Mar. 15, 2012). Accordingly, I will vacate the

portion of the in forma pauperis order relating to appellate filing fees in each of these cases stating that the remainder of the \$455 fee is due in monthly installments. This does not mean that any of the petitioners who have already had funds withdrawn from their accounts to pay the remainder of their fees are entitled to refunds of those amounts. Webb v. Anderson, 224 F.3d 649, 653-54 (prisoner incorrectly ordered to pay remainder of habeas appellate fee under PLRA not entitled to refund of withdrawn funds.)

ORDER

IT IS ORDERED that the portion of the appellate in forma pauperis order entered in each of these cases and stating that the remainder of the \$455 fee is due in monthly installments in each of the above-captioned cases is VACATED. Each of the petitioners' respective institutions will be notified that they should no longer use the procedure outlined in the PLRA to collect the remainder of the filing fees of these petitioners.

Entered this 16th day of March, 2012.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge